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IN RE DPW ENVIRONMENTAL
REMEDATION

BOROUGH OF DUMONT
DPW INVESTIGATORY COMMITTEE
BERGEN COUNTY-NEW JERSEY

REPORT OF FINDINGS
December 20, 2011

This office was requested to assist in the investigation of the Dumont DPW Remediation and to report findings therefrom. The Dumont DPW Investigatory Committee is chaired by Council President Carl Manna. Council Members Matthew M. Carrick and Ellen Zamechansky serve as the other members.

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PREFATORY NOTE

Due to the voluminous nature of the documents relied upon in creating this report, only those documents that are highly relevant to the summary and conclusion are attached hereto. All other documents will be held on file by the Borough Clerk and can be made available pursuant to a duly submitted OPRA request.

PART I. INTRODUCTION

This report arises out of an investigation into facts surrounding an allegedly chronic state of environmental contamination that has been in place at and around the Dumont Department of Public Works ("DPW") grounds for more than twenty (20) years. Members of the current governing body became aware of the existence of this contamination on or around 10/01/2010, when Mayor Matthew P. McHale ("Mayor McHale") received a nine (9) page letter of 09/29/2010 from the New Jersey Department of Environmental Protection ("NJDEP"), Responsible Party Investigations Unit, outlining the nature and history of the contamination as per the NJDEP's information. See 09/29/10 Letter from Rodney F. Murray, NJDEP Responsible Party Investigations Unit, annexed hereto as Exhibit A.

According to the 09/29/2010 letter from the NJDEP, the contamination at or around the DPW resulted from several incidents of discharges of hazardous substances, as follows:

- 09/1986 discharge of gasoline resulting from an overfill of an underground storage tank ("UST") (contaminated soil excavated but no additional information provided to NJDEP regarding remediation);
- 10/1986 through 04/1987 leaking 4,000-gallon gasoline UST at 1 Aladdin Avenue ("DPW Site") (UST removed in April 1987, contaminated soil excavated and backfilled but no additional investigation/remediation conducted);

- 05/1990 discovery of leaking 1,000-gallon abandoned gasoline UST at Aladdin Park ("Aladdin Park site" located at Twinboro Lane and Aladdin Avenue), estimated to have leaked approximately 600 gallons of gasoline (UST removed); and
- 09/1990 fire caused by hazardous substances in a garbage truck coming from Dumont High School extinguished at DPW grounds (all garbage and fire fighting waste water collected and disposed of off-site).

Within the 09/29/2010 NJDEP letter, the NJDEP advised the Borough that it was legally obligated to remediate the discharge of hazardous substances pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-1, et seq. ("SRRA"). Failure to comply with the SRRA, the NJDEP wrote, could result in a variety of consequences, including loss of decision making power with regard to remediation activity at the site, liability for three times the costs expended by the NJDEP to remediate the site, and any other enforcement actions permitted under the SRRA.

Prior to receiving the NJDEP letter, the 2010 governing body of Dumont was unaware of any ongoing contamination within the Borough, specifically at and around the DPW grounds. In fact, an initial review of Borough Hall records failed to uncover any documentation of the contamination described in the NJDEP letter. As will be described herein, the lack of records and the seriousness of the contamination described by the NJDEP, not to mention to the potential consequences the Borough faced, prompted the governing body to authorize an investigation into the circumstances and actions surrounding the contamination. See 11/09/2011 Borough Council resolution authorizing investigation, attached hereto as Exhibit B. The following report contains details of the investigation and findings, as well as a summary of conclusions drawn therein.

PART II. INVESTIGATION AND FINDINGS

A. Initial Response by the Borough

Sometime between 10/01/2010 and 10/07/2010, the Borough contacted the Hackensack based law firm of Nowell Amoroso Klein Bierman ("Nowell Amoroso"), which had represented the Borough during the years in question, in an attempt to obtain documents related to the alleged contamination. At the request and direction of the Governing Body, Borough Attorney Gregg F. Paster ("Attorney Paster") of Gregg F. Paster & Associates, and staff, conducted an initial review of the approximately 500 hundred pages of documents obtained from Nowell Amoroso. Attorney Paster summarized the contents of the Nowell Amoroso records in a chronological timeline fashion and shared that timeline of events with Borough representatives at a special meeting held on 10/18/2010, the purpose of which was to discuss the correspondence from the NJDEP and the nature of the contamination.

Upon reviewing and discussing the NJDEP letter and the timeline developed from the Nowell Amoroso documents, it became clear to Borough representatives that the Borough was facing a serious problem of chronic environmental contamination which was largely due to serious mismanagement of remediation efforts by the previous Borough administration. The records obtained from Nowell Amoroso indicated, at best, serious historical inaction by the previous Borough administration. At worst, the issue was consciously ignored without regard to potential consequences.

Further consensus among Borough representatives was that a proper reconstruction of the relevant documents should be created by obtaining documents from the NJDEP. Accordingly, Attorney Paster made an OPRA request for NJDEP documents. The files were so voluminous that it was decided that a site visit would be

the most appropriate way to review the documents, so on or about 12/10/2010, Meghan V. Tomlinson ("Attorney Tomlinson"), then of counsel to Gregg F. Paster & Associates, visited NJDEP file headquarters in Trenton, NJ to conduct a file review the NJDEP file(s) for the Dumont DPW contamination. At that time Attorney Tomlinson tagged approximately 700 hundred pages of documents for copying to complete the Borough's file.

The record constructed as per the NJDEP files and the Nowell Amoroso documents is summarized in Section B. Attached hereto as Exhibit C is a timeline of those documents generated by Gregg F. Paster & Associates.

B. Summary of documents from Nowell Amoroso and NJDEP

Formal remediation efforts began in 1990, when the Borough retained EEC Environmental Inc. ("EEC") to investigate the state of contamination at the DPW grounds. See 10/15/1990 letter attached hereto as Exhibit D. The Borough's primary focus at that time was the abandoned 1,000-gallon gasoline UST which had been discovered leaking some five (5) months earlier. In the course of its investigation, EEC developed an initial schedule of activities for compliance purposes, which included installation of several monitoring wells at the Aladdin Park site. However, by 02/1991, EEC determined that, according to the monitoring well samples, the downgradient of the abandoned 1,000-gallon gasoline UST was clean and therefore the investigation should focus on the leaking 4,000-gallon gasoline UST that had been removed in 04/1987. See 02/26/1991 NJDEP report of phone call, attached hereto as Exhibit E.

According to the 09/29/2010 NJDEP letter, EEC conducted supplemental investigations which allowed it to identify five (5) additional areas of concern at the DPW

grounds, as follows: a former gasoline UST and releases of waste oil and residuals from home heating oil tanks northeast of the DPW facility; a second gasoline UST and storm sewer line north of the DPW facility; reports of historic releases of waste oil east of the DPW facility; an active waste oil tank and possible surface discharges of gasoline south of the DPW facility; and a former waste water treatment plant on an adjacent property.

In 04/1991, EEC sent a letter to the NJDEP confirming an oral understanding that had been reached between representatives of EEC and the NJDEP, that the Borough's Discharge Investigation Corrective Action Report ("DICAR"), which was required by the NJDEP as part of the remediation activities, would be delayed because additional investigation was required with regard to the leaking 4,000-gallon gasoline UST. See 04/09/1991 letter from EEC, attached hereto as Exhibit F. Refocusing its investigation, the Borough requested and the NJDEP granted, by letters of 06/26/1991, 07/03/1991, and 07/17/1991, a 90-day extension of time to submit its final report.

By letter of 10/03/1991, the NJDEP transferred the case to the Division of Responsible Party Site Remediation, and on 11/19/1991 the Division of Responsible Site Remediation advised the Borough that it was to immediately initiate free product recovery. See 11/19/1991 letter from NJDEP, attached hereto as Exhibit G. In turn EEC developed a free product recovery plan which involved training DPW employees how to hand bail the free product into drums for offsite disposal. See 12/02/1991 letter from EEC, attached hereto as Exhibit H.

By 01/1992, EEC had submitted a DICAR Summary to the NJDEP on the Borough's behalf by letter dated 01/17/1992. Little documented record of activity exists

between then and 10/30/1992, when the NJDEP sent correspondence of even date to former counsel to the Borough Joseph A. Ferriero, Esq. ("Attorney Ferriero"), former Borough Administrator Marvin Katz ("former Administrator Katz") and former DPW Superintendent John Cook ("former Superintendent Cook"), advising that the NJDEP was concerned about several environmental issues at the DPW site and the Aladdin Park.

The NJDEP broke down its concerns into UST-related concerns and non-UST-related concerns, and ordered the Borough to do the following:

- As to non-UST-related issues:
 - Determine the source of contamination affecting nearly all soil borings provided to date;
 - Provide information regarding the September 1990 chemical fire that was extinguished on the DPW grounds;
 - Determine the source of ground water gasoline contamination, as same could not be traced to a UST source; and
 - Examine historical records to determine whether: (a) other unknown USTs might still exist at the DPW site or the Aladdin Park site; (b) other floor drains other than the ones noted and connected to the active 250 gallon waste oil UST ever existed at the sites; and (c) any dry wells exist or ever existed at the two sites.
- As to UST-related concerns:
 - Conduct soil sampling to ensure that no soil contamination existed;
 - Sample ground water monitoring wells for various volatile organics, base/neutral organics, and lead,
 - Continue to delineate ground water contamination; and
 - Depict all monitoring wells on a scaled map, plot the results of the well search, and provide information with regard to the results of the well search.

See 10/30/1992 letter from NJDEP, attached hereto as Exhibit I.

Finally, the NJDEP stated that the Borough had 90 days to submit to the NJDEP a Remedial Action Workplan ("RAW"), and that the Aladdin Park site and the DPW site were to be registered separately from one another. Id.

EEC replied to the NJDEP on the Borough's behalf by letter dated 02/04/1993, explaining that the conditions at the site were complex and that the remedial investigation was being conducted in a phased manner. At that time, EEC submitted a revised schedule of supplemental investigation activities that would provide the Borough and EEC more time to investigate the entirety of the contamination at the two sites. The NJDEP granted the extension sought by EEC by letter dated 02/19/1993, which gave the Borough until 07/06/1993 to submit sample results and a RAW.

By 05/26/1993, EEC had been renamed Harding Lawson Associates ("HLA"), and HLA had determined that it required yet another extension of time to submit the RAW due to the fact that the Borough needed to obtain an access agreement for installation of an off-site well. HLA and the NJDEP agreed, as set forth in a letter dated 5/26/1993, that a revised outline of activities would be submitted to the NJDEP once the access agreement was obtained.

Meanwhile, during the summer of 1993, Borough engineering firm Boswell McClave ("Boswell") represented the Borough in a UST closure plan. That plan involved contracting one outside company (Castle Excavating) to remove a 275-gallon waste oil tank, a 2000-gallon diesel tank, and a 3000-gallon unleaded gasoline tank, as well as contracting another company (Metro-Tank, Inc.) to install a 500-gallon waste oil tank and a dual compartment 5,000-gallon diesel and unleaded gasoline tank. Administrative and statutory requirements such as applications, approvals, and requests

for bids carried the removal portion of the project into 01/1994. The installation portion began in 02/1994, as mentioned in a letter dated 02/15/1994, however a letter of 03/30/1994 to the Borough from installation contractor Metro-Tank reveals the fact that installation procedures were repeatedly delayed due to the Borough's indecision as to possible modification of the UST system being installed.

The record as it related to NJDEP remediation requirements did not pick back up until 08/1994, when Mary Anne Kuserk, NJDEP BUST Section Chief ("Section Chief Kuserk") wrote a letter dated 08/19/1994 to former Administrator Katz, former Superintendent Cook, and former Borough Attorney John Dudas ("Attorney Dudas") to remind the Borough that it was necessary to address the contamination at the DPW site and the Aladdin Park site as two separate NJDEP cases. The NJDEP further advised the Borough in that letter that certain contamination at the DPW site from an unknown source required supervision by the Bureau of Field Operations ("BFO"), thus a Memorandum of Agreement ("MOA") was required for that component of the contamination. The Bureau of Underground Storage Tanks ("BUST") would continue to monitor the discharge from the USTs, however if the Borough desired to have one case manager for both the UST issues and the unknown source contamination, then it was to indicate so to the BFO using the MOA.

Shortly thereafter, Attorney Ferriero wrote to the NJDEP on 08/25/1994 to indicate the Borough's desire to designate the two areas into one case number. Attorney Ferriero asked that the NJDEP contact him to discuss the matter in greater detail, however according to a letter of 10/07/1994 from Section Chief Kuserk to Attorney Ferriero, reciprocal attempts to make contact by the phone were unsuccessful.

Section Chief Kuserk then went on to document the reasons why the NJDEP thought it would be beneficial to separate the two sites into two cases.

In the meantime, on 10/04/1994, Lee Hendricks, NJDEP BUST Unit Supervisor ("Unit Supervisor Hendricks") wrote to former Administrator Katz, former Superintendent Cook and Attorney Dudas, warning them that the Borough had not submitted the required RAW, despite receiving an extension of time to submit the same. Within that letter, the Borough was instructed to, within 10 days, either submit a RAW or indicate to BUST that the Borough would enter into an MOA with the BFO for all concerns, both UST and non-UST related. Failure to respond within time, the NJDEP warned, could result in the case being referred to the Bureau of Applicability and Compliance ("BAC") for review and enforcement action.

The record does not reveal a response within the requisite 10 days, however Gregory Albright, Senior Geologist of HLA ("Geologist Albright"), wrote to the NJDEP on 10/21/1994 with a schedule of tasks that the Borough had authorized HLA to perform, the task's status, and scheduled completion date. Geologist Albright then requested by letter dated 10/21/1994 that the Borough be permitted to have until 12/16/1994 to submit the required report. The NJDEP approved the Borough's request by letter dated 10/27/1994.

It appears that the 12/16/1994 date came and went, as the next correspondence to come from the Borough with regard to the RAW report occurred on 01/04/1995, when Geologist Albright wrote to the NJDEP to indicate that the reports were being sent to the Borough for review and would be submitted to the NJDEP on 01/18/1995. In due course, on 01/18/1995, Geologist Albright submitted to the NJDEP four (4) volumes of

supplemental remedial investigation reports and proposed what purported to be a remedial action for the DPW site and Aladdin Park site.

The NJDEP responded to the Borough's submissions approximately five (5) months later. On 06/12/1995, Unit Supervisor Hendricks wrote to the Borough with regard to the Aladdin Park site, indicating that the document could not be approved as a RAW but was conditionally approved as a remedial investigation workplan ("RIW"). Unit Supervisor Hendricks outlined remaining deficiencies as follows:

- Soils:
 - Soil sampling required in the area where the 1,000-gal UST was removed and soil excavated; Borough to submit a scaled site diagram indicating where the locations of the borings and other pertinent information;
 - Backfill documentation required certifying that the material used as backfill is free of contaminants and meets statutory requirements
- Ground Water:
 - Required to submit a scaled site diagram indicating exact location and outline of the former UST and its components relative to the monitoring wells
 - Additional ground water monitoring wells required to fully delineate the extent of ground water contamination
 - Monitoring wells to be sampled semi-annually and certain documentation required to be submitted for each sampling event
 - Classification Exception Area ("CEA") to be established at the time of the RAW
- Receptor Evaluation
 - Identify possible interconnection of ground water to the subsurface sanitary sewer and natural gas lines located along Aladdin Avenue
 - Determine whether basements are present along the portion of the northern side of Armour Place, between Aladdin Avenue and Hirshfeld Brook
- Quality Assurance: various standards to be followed

- Other
 - All work related to tank service must be conducted by or supervised by a certified individual
 - Required to notify the assigned BUST case manager prior to implementation of field activities
 - Required to submit an Effectiveness Analysis and Certification
- Administrative Requirements
 - Required to submit a revised RAW within 90 days. Revised RAW to detail all activities conducted to comply with the above requirements and present a comprehensive remedial proposal for all soil and ground water contamination

See 06/12/1995 letter, attached hereto as Exhibit J.

Unit Supervisor Hendricks then wrote to the Borough a week later on 06/20/1995 with regard to the DPW site, with a similar response: the document, as it related to the former UST, could not be approved as a RAW but it could be conditionally approved as a RIW. Unit Supervisor Hendricks outlined remaining deficiencies as follows:

- Soils
 - Required to sample and analyze excavation where 3,000-gallon gasoline UST was removed
 - Required to delineate, sample and analyze excavation area where 4,000-gallon gasoline UST, 2,000-gallon diesel UST, and 250-gallon waste oil UST were removed
 - Required to sample and delineate extent of contamination where 275-gallon waste oil UST was removed and analyze same
 - Required to submit scaled site diagrams with regard to the three areas of concern
 - Required to certify that the backfill material is free of contaminants and advise as to the status of the excavated soils
- Ground Water
 - Required to install additional monitoring wells for investigation purposes

- Required to delineate ground water contamination
- Required to conduct sampling, including that of monitoring wells and recovery wells, until the ground water RAW is approved
- Required to submit scaled maps and tables to present information as to each sampling event
- Required to submit a revised ground water RAW once delineation wells have been installed and sampled
- Receptor Evaluation
 - Required to canvass the neighborhood to locate nearby wells, sample and analyze same
 - Evaluate possible interconnection of ground water to subsurface utilities
 - Canvass immediate area to determine presence of gasoline vapors in nearby basements and subsurface utilities
 - Inspect storm sewer and Hirshfield Brook semi-annually
- Quality Assurance: various standards to be followed
- Other
 - All work related to tank service must be conducted by or supervised by a certified individual
 - Required to notify the assigned BUST case manager prior to implementation of field activities
 - Required to submit an Effectiveness Analysis and Certification
- Administrative Requirements
 - Required to submit a revised RAW within 90 days. Revised RAW to detail all activities conducted to comply with the above requirements and present a comprehensive remedial proposal for all soil and ground water contamination

See 06/20/1995 letter, attached hereto as Exhibit K.

In both letters, Unit Supervisor Hendricks explained that the non-UST portions of the report would have to be forwarded to another group within the NJDEP that had the

statutory authority to handle non-UST issues, and that the Borough would be required to enter into an MOA in order to have one department oversee both the UST issues and the non-UST issues.

On 08/09/1995, HLA submitted to the Borough, pursuant to a request by Attorney Ferriero, a work proposal to respond to the NJDEP's concerns as laid out in the 06/12/1995 and 06/20/1995 letters. HLA proposed two costs to the Borough to represent two different scenarios, one at \$112,645 (\$80,507 for DPW site and \$32,138 for Aladdin Park site) and the other at \$86,278 (\$65,690 for DPW site and \$20,588 for Aladdin Park site).

Apparently the Borough never responded to HLA's proposals. Indeed, two months later, on 10/03/1995 (and beyond the time the RAW was due to the NJDEP), HLA wrote to the Borough inquiring as to the status of the Borough's review of the proposal. At that point, HLA also advised the Borough that it was owed a total of \$27,605.72 for work it had already done for the Borough.

Again, the record does not reveal any formal written response from the Borough with regard to HLA's proposal or to the past due invoices.

In 1996 the Borough appointed two new attorneys: Joseph Pojanowski ("Attorney Pojanowski") became Borough attorney, while Henry Amoroso ("Attorney Amoroso") of Nowell Amoroso became Borough litigation attorney, taking over the Dumont leaking fuel tank matter from Attorney Ferriero.

On 01/31/1996, Attorney Pojanowski wrote to then Dumont Mayor Winant ("former Mayor Winant") confirming a meeting scheduled for 02/12/1996 to discuss the

status of the DPW site. The record does not reveal what came of that meeting or if it indeed occurred.

In 02/1996, approximately eight (8) months after the NJDEP deficiency letters of 06/1995, the Borough apparently resolved to authorize HLA to prepare the necessary documentation for the NJDEP to consolidate the review work for this matter with one case manager.

Despite the resolution to authorize HLA work, the record contains a letter of 03/14/1996 from David Terry, Associate at Leggette, Brashears & Graham, Inc. ("LBG"), a professional ground-water and environmental services firm, to former Mayor Winant, stating that it was a pleasure meeting with him and Councilman [Michael] Licameli ("former Councilman Licameli") the previous week to discuss environmental issues related to the gasoline discharge at the DPW. Apparently former Mayor Winant and former Councilman Licameli requested that David Terry ("Associate Terry") prepare a proposed scope of work for the Borough, as Associate Terry went on to describe his site visit findings and a proposed scope of work. Associate Terry also criticized the work previously done for the Borough and implied that LBG could negotiate with the NJDEP in order to alleviate the Borough's burden with regard to remediation requirements.

HLA was likely unaware of this private meeting between Associate Terry and former Mayor Winant and former Councilman Licameli. In accordance with the resolution of the governing body, HLA drafted MOAs for the Borough and submitted same to the Borough under cover of letter dated 04/01/1996, indicating that certain input was required from the Borough in order to complete the MOAs for submission to the NJDEP.

Meanwhile, the Borough continued to engage LBG. A letter of 04/12/1996 from Attorney Amoroso to Associate Terry confirms a future meeting on 05/01/1996 between Attorney Amoroso, Associate Terry, former Mayor Winant, former Councilman Licameli, and William DeLorenzo ("Attorney DeLorenzo") of Nowell Amoroso. According to a letter of 05/03/1996, the meeting indeed occurred and Associate Terry documented the discussions held therein. According to Associate Terry's letter, the agreements made at the meeting were as follows:

- Nowell Amoroso would prepare an MOA application and send it to LBG for review; Nowell Amoroso would then submit the MOA to the NJDEP
- LBG would begin preparing a summary document for submission to the new NJDEP case manager which would attempt to address as many of the outstanding NJDEP concerns as possible
- LBG would also provide Dumont with a map of the area in which door-to-door well canvassing must be completed; Dumont personnel would complete the survey and return to LBG for incorporation into the summary document.

On 05/06/1996, Attorney DeLorenzo received from the NJDEP a statement of procedures for requesting financial assistance from Hazardous Discharge Site Remediation Fund. Presumably, this was a follow-up from the information provided by LBG suggesting that certain funding may be available to the Borough.

Apparently, Nowell Amoroso used the draft MOA previously prepared by HLA, as Attorney DeLorenzo of Nowell Amoroso sent same to Associate Terry under letter dated 05/08/1996.

On 05/09/1996, Attorney Pojanowski wrote to HLA regarding an invoice of 04/19/1996. In this letter Attorney Pojanowski told HLA that the Borough had retained another engineering consulting firm, and that based upon the new firm's review of the file, it has been determined that HLA did not perform in an acceptably professional

manner concerning the DPW site cleanup. Attorney Pojanowski asserted that the Borough would not be paying the submitted bill in the amount of \$1,103.07. Attorney Pojanowski went on to state that the Borough discovered that sources of funding may have been available to the Borough from the State of New Jersey or the Federal Government to pay for HLA's work and the ultimate cleanup, and that HLA should have made a diligent inquiry into possible liability of the United States Army for the contamination at the DPW grounds. Attorney Pojanowski concluded that HLA would be further advised "as the Borough receives a more formal report".

The NJDEP file contained a memo referring to a phone call on 05/20/1996 between Unit Supervisor Hendricks and former Mayor Winant in which Unit Supervisor Hendricks advised former Mayor Winant that an MOA must be executed if the Borough wished to have one case manager. According to the memo, former Mayor Winant indicated that indeed the Borough would pursue the option of one case manager.

On 05/28/1996, Attorney DeLorenzo wrote to former Mayor Winant, providing him with the Hazardous Discharge Site Remediation Fund procedures he had obtained from the NJDEP. Attorney DeLorenzo instructed former Mayor Winant to review the procedures and contact him to complete the application. Former Councilman Licameli was carbon copied on this letter.

On 06/10/1996, Associate Terry wrote to former Mayor Winant and Attorney DeLorenzo indicating that the MOA as prepared was deficient because it continued to separate the properties into two sites. Associate Terry outlined specific changes that were required.

Though the Borough began working with LBG, HLA was still demanding payment for its services rendered. HLA responded to Attorney Pojanowski's 05/09/1996 letter on 06/18/1996, refuting the Borough's claims that it failed to act in the Borough's best interest. HLA cited the fact that the Borough had never before criticized HLA's work until HLA pressed for payment of past due invoices, and reminded the Borough that all work was performed pursuant to proper authorization from the Borough. As to the Borough's claims regarding HLA's failure to advise the Borough of possible cleanup funding sources, HLA stated that, despite the fact that it is ordinarily legal counsel's responsibility to advise as to statutory funding sources, the Borough was probably ineligible for funding by the New Jersey Spill Compensation Fund and also it was Attorney Ferriero who had assumed the responsibility of investigating funding from the Hazardous Discharge Site Remediation Fund. Further, HLA advised, it was not aware of possible US Army presence until a council member mentioned it at a council meeting on 11/21/1995, at which point HLA advised that it would not look into the matter until past due charges approaching 1-year overdue were paid. Noted parenthetically in the letter was that during the 11/21/1995 meeting that "the [M]ayor assured HLA that a resolution would be passed at the January [sic] 1996 council meeting that would fund payment of these past-due charges." Finally, HLA attached invoices for past due bills, which amounted to \$37,812.74, including interest. Attached hereto as Exhibit L is a copy of the HLA 06/18/1996 letter.

Apparently the January, 1996 resolution authorizing payment of the HLA bills was not adopted, and still lacking a concrete reason for the Borough's refusal to pay the HLA bills, Attorney Pojanowski wrote to Attorney DeLorenzo on 09/18/1996 requesting

specific reasons why the Borough would not be paying the bill. Apparently Attorney Pojanowski's request went unanswered, as he wrote again to Attorney DeLorenzo on 10/16/1996 requesting the same information and enclosing a letter from HLA general counsel in which HLA stated that it may be forced to file suit if it did not hear from the Borough by 10/25/1996.

In the meantime Associate Terry wrote to Attorney DeLorenzo regarding the MOA by letter dated 10/11/1996. Associate Terry suggested two (2) minor changes, which Attorney DeLorenzo apparently made prior to submitting revised drafts of the MOA to former Mayor Winant and former Councilman Licameli on 11/12/1996 for their review. On the same day Attorney DeLorenzo wrote to former Mayor Winant regarding Attorney DeLorenzo's letter of 05/28/1996, suggesting yet again that the Borough complete the financial assistance package so that it could be processed with the MOA application.

By 12/24/1996 correspondence, a final draft of the MOA was sent to former Mayor Winant for his signature, along with a third message to have someone from the Borough contact Attorney DeLorenzo to begin the financial assistance process with the State. The MOA was executed by former Mayor Winant on behalf of the Borough, apparently on that day. On the same day, Attorney DeLorenzo wrote to Associate Terry requesting advice as to HLA's bill, in accordance with Attorney Pojanowski's request.

By 01/08/1997, the MOA had been executed by both the NJDEP and former Mayor Winant on behalf of the Borough. Attached hereto as Exhibit M is the 01/08/1997 MOA. The MOA required the Borough to submit the following:

- Preliminary Assessment Report

- Site Investigation Report
- Remedial Investigation Workplan
- Remedial Investigation Report
- Remedial Action Workplan
- Remedial Action Report

According to a letter of 01/21/1997 from the NJDEP, the Borough was to submit a schedule of implementation of the above activities and/or phases by 02/08/1997. As that deadline approached, on 1/30/1997 the NJDEP wrote to Attorney DeLorenzo requesting contact by 02/15/1997. It is unclear whether that contact was ever established, however it does not appear that the Borough submitted any documents by the MOA deadline of 02/08/1997. On 02/12/1997 Attorney DeLorenzo wrote to Associate Terry requesting that Associate Terry contact him to discuss the status of the submission. Attorney Pojanowski, former Mayor Winant, and former Councilman Licameli were copied on that letter. Astonishingly, the record is completely barren until 11/17/1997, when Attorney DeLorenzo wrote to the NJDEP MOA Case Manager Harry Wertz ("Case Manager Wertz") requesting a meeting. Apparently a meeting occurred, as Associate Terry issued a letter some weeks later dated 12/12/1997 to former Mayor Winant and Attorney DeLorenzo summarizing agreements reached at a meeting with Case Manager Wertz. According to Associate Terry's letter, at that point in time there were three (3) areas of concern ("AOC"): (1) contaminated soils were present across the entire DPW and were likely due to fill materials, not USTs; (2) the presence of a dissolved gasoline contaminant plume in the ground water at Aladdin Park, resulting from UST leaks; and (3) the presence of free-phase gasoline and a dissolved gasoline contaminant plume in the ground water at the DPW yard, resulting from UST leaks.

Associate Terry then laid out a scope of work for the Borough in order to obtain closure as to those AOCs, in accordance with the steps outlined by Case Manager Wertz. Associate Terry estimated LBG's services to cost \$12,500 and the work to be completed in increments of 45 days, 30 days, and 45 days.

The record does not reveal any sort of response from the Borough. Indeed, on 01/13/1998 Case Manager Wertz wrote to Attorney DeLorenzo stating that he was looking forward to receiving the Borough's progress report, which he stated Associate Terry had discussed at the 12/11/1997 meeting.

Following that letter from the NJDEP, the record again goes dry until 06/1998, when Attorney DeLorenzo submitted to Jack Eckel, a long-time Borough employee who held positions such as Chief of Staff, Acting Borough Clerk and Borough Administrator, then serving as Administrative Chief of Staff ("former Chief of Staff Eckel"), under cover of 06/24/1998, an application for a Grant/Loan Program from the NJDEP's Hazardous Discharge Site Remediation Fund. This marked Attorney DeLorenzo's fourth attempt over a two (2) year period to bring the funding issue to the Borough's attention. The record lacks any response from the Borough.

Also on 06/24/1998, Attorney DeLorenzo wrote to Associate Terry, requesting an update as to whether certain information had been forwarded to NJDEP. The record lacks any response from Associate Terry. Almost four (4) months later, on 10/13/1998, Attorney DeLorenzo wrote to Associate Terry again, requesting an update as to the status of the environmental report. On the same day, Attorney DeLorenzo wrote to former Chief of Staff Eckel requesting an update as to the status of the financial aid application.

By November of 1998, Associate Terry sent to former Mayor Winant two (2) copies of the RAW LBG had prepared for submission to the NJDEP under cover of 11/10/1998. Associate Terry instructed former Mayor Winant that the Borough needed to complete a certification form and submit same with the RAW to the NJDEP. On 11/24/1998, pursuant to Dumont Resolution No. 98-0201, former Mayor Winant signed a Responsible Party Certification in accordance with N.J.A.C. 7:26C-1.2(b) which read as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties." See attached hereto as Exhibit M a copy of Resolution 98-201 and the signed certification.

It is understood that the RAW was then submitted with former Mayor Winant's certification, as Case Manager Wertz wrote to Attorney DeLorenzo some nine (9) months later, on 08/06/1999, stating that he had received the RAW. Case Manager Wertz advised Attorney DeLorenzo that the RAW did not address certain NJDEP concerns, thus a revised RAW and an update regarding the status of additional investigations was required. Associate Terry was copied on that letter and, according to a 10/27/1999 letter from Attorney DeLorenzo to Associate Terry, Attorney DeLorenzo had reviewed that letter with Associate Terry and discussed with him the need for LBG to complete additional work upon receipt of an authorization from the Borough.

Associate Terry responded to Attorney DeLorenzo shortly thereafter by letter of 11/11/1999. Associate Terry's response is summarized as follows:

- LBG's RIW included the implementation of a natural attenuation remedy to address fuel-related soil and ground-water contamination. The NJDEP responded by letter of 08/06/99 that additional information would be required before the NJDEP could accept that approach.
- LBG then laid out a proposed scope of work for the Borough to address the NJDEP concerns. The proposed scope of work included ground-water monitoring, soil sampling, and a Remedial Investigation Report/RAW Addendum
- LBG's scope of work was estimated to cost \$17,500, and LBG could begin the work immediately upon authorization from the Borough

Yet again, the record went dry until 08/23/2000, when the NJDEP terminated the MOA by letter to Attorney DeLorenzo. Within the termination letter, the NJDEP stated that it had not received any response to its 08/06/1999 deficiency letter and that the site would be placed on the NJDEP Comprehensive Site List. Nearly four (4) months later, by letter dated 12/07/2000, Attorney DeLorenzo wrote to Associate Terry regarding Associate Terry's proposed scope of work and the fact that the MOA had been terminated for failure to respond to the NJDEP deficiency letter. Associate Terry responded on 12/18/2000, copying former Chief of Staff Eckel on same, and stating that LBG was prepared complete the work described in its 11/1999 proposal at the same costs if authorized to do so by the Borough. Another four (4) months later, on 04/09/2001, Attorney DeLorenzo forwarded Associate Terry's letter to former Chief of Staff Eckel, reminding him that the NJDEP had withdrawn the MOA and that LBG was prepared to do the work required to complete the MOA, if the NJDEP were to reopen it. Attorney DeLorenzo requested from former Chief of Staff Eckel some sort of confirmation as to whether the Borough wished to proceed with the MOA or not. Without response, Attorney DeLorenzo wrote to former Chief of Staff Eckel nine (9)

months later, on 01/09/2002, again requesting advice as to whether the Borough intended to pursue the cleanup matter. This letter marked the last of any documentation the Borough recovered with regard to the DPW area contamination. Needless to say, no documentation that would suggest the cleanup proceeded any further than the November 24, 1998 resolution and certification by former Mayor Winant appears in either the NJDEP or the Nowell Amoroso files.

C. 2010-2011 depositions

In addition to the documents the Borough was able to review for the purpose of this investigation, the Borough sought to obtain testimony from various individuals with regard to their recollection of the history of contamination at the DPW. In the interest of time and efficiency, the Borough Attorney's office was authorized to take testimony from parties thought to have relevant knowledge of the events surrounding the remediation process.

i. December 2010 depositions of DPW workers

The Borough, through the office of the Borough Attorney, initially issued subpoenas to four (4) current DPW workers, all of whom have been working for the Dumont DPW since the 1970s and 1980s. On or about 12/14/2010, Attorney Tomlinson deposed the following individuals: William Ebenhack ("Mr. Ebenhack"), currently serving as Superintendent of Public Works, began working for the DPW in 1979 as a truck driver/laborer; John Molinaro ("Mr. Molinaro"), currently serving as a road foreman, began working for the DPW in 1979 as a truck driver/laborer; Timothy Baierwalter ("Mr. Baierwalter"), currently serving as a foreman, began working for the DPW in 1986 as a

truck driver/laborer; and Brian Dew ("Mr. Dew"), currently serving as a sweeper/operator, began working for the DPW in 1985 or 1986 as a laborer. These depositions took place at Borough Hall, individually and consecutively, so as to protect the integrity and confidentiality of the investigation, and all of the deponents chose to appear without counsel. See Ebenhack Dep., Molinaro Dep., Baierwalter Dep., Dew Dep.

Mr. Ebenhack recalled a fuel spill at the DPW sometime during 1990. Ebenhack Dep., 9:5-25. As to remediation efforts, Mr. Ebenhack recalled that a UST had been removed and that an outside company began coming to the DPW to monitor wells that had been installed. Id. at 11:7-13, 12:12-20. Mr. Ebenhack was not sure why, but at some point that company stopped coming and he was tasked with the job of monitoring the wells, along with Mr. Dew and an individual by the name of Anthony Pierro, who it was later determined was employed by the DPW for several decades and ultimately served as a foreman of the DPW. Id. at 12:18-14:7. Mr. Ebenhack indicated that the monitoring involved removing certain contents from the wells and depositing those contents into metal barrels. Id. at 12:17-18. According to Mr. Ebenhack, the monitoring activities ceased once the barrels became full and the DPW supervisors were unable to obtain further direction as to how to proceed. Id. at 14:8-23, 15:5-14, 15:21-25, 16:17-17:4, 18:7-15. Mr. Ebenhack went on to state that, years later, sometime during the early 2000s, DPW workers discovered that the bottoms of the metal drums had rotted out and the contents leaked back into the ground. Id. at 16:13-16, 18:25-19:20. Mr. Ebenhack stated that Mr. Baierwalter had then been tasked with disposing of the empty barrels. Ibid.

Mr. Molinaro essentially corroborated Mr. Ebenhack's testimony. Mr. Molinaro recalled an outside company appearing at the DPW grounds to monitor wells in the premises, and recalled the discovery of the rotted-out drums sometime in the early 2000s. Molinaro Dep. at 20:1-21:4, 21:14-24. Mr. Molinaro stated that he informed former DPW Superintendent John Cook ("former Superintendent Cook") of the rotted out barrels and that he was unsure of whether former Superintendent Cook relayed the information to anyone, but that former Superintendent Cook's supervisors were, the members of the Borough Administration, particularly Mr. Eckel. Id. at 21:5-13, 22:15-23:4, 24:4-18, 26:5-16. Mr. Molinaro also confirmed that Mr. Baierwalter was the individual tasked with crushing the rotted-out, empty drums and putting them into a truck for removal from the DPW grounds. Id. at 25:2-8. Mr. Molinaro reported that former Superintendent Cook ordered Mr. Baierwalter to do so pursuant to an order from Borough Hall. Id. at 25:9-11, 26:14-20.

Mr. Baierwalter's memory was lacking, but he also recalled the installation and monitoring of wells at the DPW. Baierwalter Dep. at 12:11-13:11. Significantly, Mr. Baierwalter confirmed that he was ordered by former Superintendent Cook to crush and remove the rotted-out barrels. Id. at 14:10-19, 15:2-20. Mr. Baierwalter stated that former Superintendent Cook issued the order pursuant to instruction from Borough Hall. Id. at 15:12-15.

The final DPW worker deposed was Mr. Dew, who stated that he ordinarily keeps to himself and therefore did not know a lot of information regarding the contamination at the DPW. Mr. Dew did, however, state that former Superintendent Cook had asked him to monitor the wells at the DPW for some period of time. Dew Dep. at 11:2-25.

ii. January – February 2011 depositions of former Councilmen and former DPW Superintendent John Cook

On or about 12/16/2010, the Borough subpoenaed former Dumont Council people, as well as former Superintendent Cook, former Chief of Staff Eckel, and former Mayor Winant, in an effort to ascertain what was known by those who were tasked with governing and administering Dumont. The following individuals were issued subpoenas: Edwin Orr; Scott Manno; John Cook; Michael Licameli; Donald Winant; George DiConstanza; John Eckel; Gary Hemmer; Robert McQuade; Lisa Boyd; Kevin Gynegrowski; Eric Abrahamsen; and Charles Grillo.

On 12/30/2010, Attorney Paster received correspondence from Robert L. Galantucci ("Attorney Galantucci"), of Galantucci & Patuto, which is a Hackensack-based law firm that specializes in criminal defense. Attorney Galantucci wrote on behalf of former Councilman Licameli, requesting a copy of the Dumont resolution relevant to the subpoena as well as payment of counsel fees for Mr. Licameli. Upon receipt of Resolution #2010-285, Attorney Galantucci again wrote to Attorney Paster, arguing that the council did not have the requisite power to subpoena Mr. Licameli for its stated purpose. Approximately two (2) weeks later Attorney Galantucci wrote Attorney Paster to indicate that he had also been consulted by former Mayor Winant with regard to the subpoena, and that he had advised former Mayor Winant that was under no obligation to respond to the subpoena.

Former Mayor Winant and former Councilman Licameli did not appear in response to the subpoenas. In addition, former Chief of Staff Eckel failed to appear in response to the subpoena, and former Councilwoman Boyd objected to appearing

during regular business hours due to her inability to get time off from work. As to Ms. Boyd, the Borough ultimately concluded that, based upon the record before it, it was unlikely that Ms. Boyd would be able to provide any useful information as her time on the council was limited to a four (4) month period during 2004. Accordingly, the Borough concluded that its resources would not be well spent on obtaining former Councilwoman Boyd's testimony and she was excused from responding.

In the meantime, between 01/2011 and 02/2011, all of the other recipients of the subpoenas appeared without objection to provide testimony with regard to the DPW contamination.

For the most part, the deponents' knowledge of contamination was limited to what was read in recent media reports and what was learned outside of the council (for example, former Councilmen Gynegrowski and Manno knew of the existence of the monitoring wells because of their involvement with the local Knights of Columbus, which was adjacent to the DPW). Gynegrowski Dep. at 10:9-22, Manno Dep. at 5:20-6:1, 8:25-9:3. Former Councilman Gynegrowski, who served from 1993-2004, recalled only one discussion of DPW contamination during his tenure. Gynegrowski Dep. at 8:6-16. Former Councilman Orr, who served from approximately 1980-2004, recalled contamination discussions during open and closed council sessions, however he did not state what years those conversations took place nor did he recall any specifics regarding the conversations. Orr. Dep. at 14:18-25. Indeed, it appears from their testimony as though the Councilmen were almost entirely in the dark with regard to the contamination goings-on at the DPW and Aladdin Park. Nevertheless, the general

consensus among the former Councilmen was that the council should have been made aware of the contamination.

Former Superintendent Cook was certainly aware of the state of contamination. According to former Superintendent Cook, who served in that position from the late 1980s through 2006, former Chief of Staff Eckel specifically asked Mr. Cook to find a DPW worker to monitor the wells that had been installed. Cook Dep. at 12:12-14:5. To that end, Mr. Cook stated that Mr. Dew had a private meeting with former Chief of Staff Eckel wherein Mr. Eckel instructed Mr. Dew how to monitor the wells. Ibid. What Mr. Eckel's expertise, background and/or training in the area of environmental engineering is and how he was qualified to give those instructions remains unclear. Mr. Cook also stated that he reported the discovery of the rotted out barrels in his written monthly report to the Mayor and Council, and that the Mayor and Council then arranged for someone to remove the barrels from the DPW grounds. Id. at 15:15-16:23. Mr. Cook's statements concerning the removal of the rotted out barrels are in slight contrast to the information provided by current DPW workers, thus it is unclear what actually occurred with regard to the rotted out barrels.

iii. **April 2011 creation of DPW Investigatory Committee; October 2011 deposition of former Chief of Staff Jack Eckel; unsuccessful attempts to obtain testimony from former Mayor Donald Winant and former Councilman Michael Licameli**

In an effort to further the investigation and obtain the testimony of former Mayor Winant, former Councilman Licameli, and former Chief of Staff Eckel, all of whom were obviously involved in the remediation efforts as evidenced by the correspondence and other documents obtained from Nowell Amoroso and the NJDEP, the Borough established an ad-hoc investigatory committee. The investigatory committee then

issued subpoenas to Messrs. Winant, Licameli, and Eckel for appearance in 09/2011. Attorney Galantucci contacted Attorney Paster prior to the appearance date to indicate that same conflicted with his schedule, and Attorney Paster agreed to reschedule the depositions of former Mayor Winant and former Councilman Licameli in an effort to accommodate Attorney Galantucci. In order to conserve resources, it was decided at that time to reschedule the deposition of former Chief of Staff Eckel to a time when all depositions could be obtained. Accordingly, Attorney Paster wrote to Attorney Galantucci offering three (3) separate dates in 10/2011 to appear with his clients for depositions. Despite the fact that all proposals were for evening depositions, Attorney Galantucci responded that none of the dates worked for him because he was involved in a four (4) week trial. Meanwhile Attorney Galantucci publicly stated that he suspected the investigation to be politically motivated.

Inasmuch as one member of the investigatory committee expressed his intention to leave the council at the end of the 2011 calendar year, the investigatory committee sought to obtain the testimonies of the remaining witnesses as soon as possible in order to have its report done prior to 12/31/2011. Accordingly, the committee scheduled all of the remaining depositions for 10/17/2011. All of the remaining deponents appeared at the 10/17/2011 public meeting, however former Chief of Staff Eckel was the only individual willing to provide testimony at that time. Former Mayor Winant and former Councilman Licameli refused to provide testimony without the presence of Attorney Galantucci.

At the outset of his testimony, Mr. Eckel stated that he was on medication which caused him to be "very sleepy and at times incoherent", but that he wished to continue

with the deposition anyway. Eckel Dep. at 15:11-16:7. In accordance with his wish, the DPW Investigatory Committee questioned Mr. Eckel about various contamination-related activities that occurred during Mr. Eckel's 13-year career with the Borough. What the Committee found was that Mr. Eckel had knowledge relating to pertinent issues, however when pressed for details Mr. Eckel consistently claimed lack of memory. For instance, Mr. Eckel knew of the leaking USTs, soil excavation activity, and the existence of the monitoring wells. Id. at 17:5-20, 19:7-15, 19:21-20:3, 30:15-19, 33:7-16. However, Mr. Eckel claimed that he never saw or knew of any reports, any correspondence, or the MOA. Id. at 18:11-19:19:6, 23:2-6, 23:7-24:11, 24:21-25:3, 25:12-15, 26:22-25, 27:1-28:20, 47:18-48:1, 48:19-49:18. In this regard Mr. Eckel's testimony is less than reliable, where the record is replete with copies of correspondence being sent to Mr. Eckel regarding the Borough's plan of remediation, applications for financial assistance, and the termination of the MOA.

During the 10/17/2011 meeting, Attorney Tomlinson read into the record correspondence that Attorney Paster had received from Attorney Galantucci in which Attorney Galantucci maintained that the scheduling difficulties were due to his own schedule and not that of his clients, and that former Mayor Winant and former Councilman Licameli were ready, willing and able to cooperate with the committee, with or without subpoena.

On 11/11/2011, Attorney Paster sent a final notice of rescheduling to Attorney Galantucci to obtain the testimony of former Mayor Winant and former Councilman Licameli. Nevertheless, on 11/21/2011, the afternoon of the evening during which the depositions were scheduled, Attorney Paster received a letter from Attorney Galantucci

stating that Messrs. Licameli and Winant had been advised not to appear to provide testimony due to the "toxic environment" that had been created. The toxic environment, according to Attorney Galantucci, supposedly involved a criminal complaint filed against a family member of a former Dumont Mayoral candidate regarding alleged terroristic threats toward former Mayor Winant, as well as a civil complaint filed against the Borough, the Borough Council and Attorney Paster. Attorney Paster assured Attorney Galantucci that the Borough has a fully staffed police department that could ensure the safety and security of former Mayor Winant and former Councilman Licameli. Nevertheless, neither former Mayor Winant nor former Councilman Licameli appeared at the meeting, and to date neither of them has provided testimony.

PART III. SUMMARY AND CONCLUSIONS

At present and at all times prior, the primary concern of the Borough of Dumont has been to learn from its mistakes. Borough officials were astounded to discover that an unhealthy, environmentally toxic condition could exist for decades on Borough owned property. Even worse, the Borough officials were saddened to learn that the contamination appeared to have been severely mismanaged, and at certain points apparently ignored, by various Borough representatives who were responsible for the Borough's well-being and involved in the remediation efforts. The documentation reviewed in connection with this investigation reveals that the reluctance to proceed to a conclusion with the remediation plan was driven, in whole or in part, by the refusal of the Administration, primarily Winant and Eckel, to pay for the necessary services promptly, or perhaps at all.

At early points in the remediation process, it appears as though the Borough was on the right track. HLA (formerly known as EEC) performed an extensive amount of remedial investigation for the Borough, which the Borough was able to use toward engaging in an MOA with the NJDEP. The Borough and/or HLA required several time extensions throughout the remedial investigation process, therefore it took several years to get to the MOA. Given the routine course of progress in any such remediation project, and the numerous spills and cases to sort through, this initial delay is not surprising. Nonetheless, the NJDEP cooperated with the Borough in getting to that point and by the time the MOA was fully executed on 01/08/1997, the Borough was on a proper path toward remediation. From the execution of the MOA, there is no evidence in the records reviewed by the Committee that any affirmative steps were actually taken to engage in the remediation program set forth in the MOA.

The record never reveals exactly why the Borough refused to pay HLA for its services. The Borough initially claimed that it was upset that HLA never advised as to possible sources of funding, however the Borough's failure to ever make application for financial assistance in the face of numerous attempts by Attorney DeLorenzo to push the issue tells a different story.

It took the Borough and/or LBG more than two (2) years from the execution of the MOA to submit a proposed RAW to the NJDEP. When the NJDEP declined to approve the RAW, LBG prepared an additional scope of work for the Borough. The Borough, however, never authorized any further work by LBG, and in due time the NJDEP terminated the MOA.

The Borough and the DPW Investigatory Committee have tried to get answers as to why or how the MOA was abandoned, but those who have provided statements have provided little information. It appears that members of council and DPW workers were, for the most part, uninvolved in the remediation efforts. No definitive answers have been offered as to why the remediation efforts ended almost immediately after the MOA was executed and despite acknowledgment of the potential consequences, both civil and criminal, that might result from non-compliance. The major participants appear to have been Jack Eckel, Donald Winant, Michael Licameli and Marvin Katz (now deceased), as well as the engineering firms and attorneys contracted by the Borough.

Inasmuch as former Councilman Licameli and former Mayor Winant obviously held meetings regarding DPW remediation efforts and received correspondence regarding the same, their testimony was deemed crucial to the investigation. After a long period of refusal, failure or neglect due to alleged improper legal mechanisms and then alleged scheduling difficulties, all the while claiming to be willing to cooperate with the Borough, Mr. Winant and Mr. Licameli ultimately never provided testimony based upon a so-called "toxic environment" that was apparently attributable to a lawsuit filed by Mr. Winant and Mr. Licameli. The lawsuit, filed the day after the 2011 election but not yet served as of the submission of this report, alleges various acts of defamation and civil rights violations committed in connection with this investigation, but in actuality appears to be a thinly veiled attempt to preempt or otherwise distract from the conclusions of the Committee's investigation. Considering their obvious involvement in the remediation activities, their repeated efforts to avoid providing testimony are nothing short of suspicious.

Former Mayor Winant appears to bear the bulk of the responsibility for the failure of the Borough to adequately address the remediation requirements. After all, Mr. Winant was the Mayor of Dumont from 1992 to 2005. During those years Mr. Winant was the chief executive officer of the Borough, and thus the proverbial buck stopped with him. It was former Mayor Winant's job to "report annually to the council and to the public on the state of the municipality", to "recommend any action or programs he deems necessary or desirable for the municipality to undertake", to "supervise, direct and control all departments of the municipal government", to "supervise the care and custody of all municipal property", to "assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, franchise or other contract are faithfully kept and performed", and more. See N.J.S.A. 40:69A-40. Indeed, it was former Mayor Winant who certified under penalty of law that he was familiar with the 1998 RAW and all attached documents. This being the final activity that the Borough conducted before the NJDEP rejected the RAW and ultimately terminated the MOA, it is abundantly clear that former Mayor Winant abandoned his duties as they related to the contamination remediation.

Similarly to former Mayor Winant, the record before the Committee begs the question of why former Chief of Staff Eckel abandoned his duties with regard to the contamination. As chief of staff, Mr. Eckel was tasked with "interact[ing] with the Borough Attorney" and "oversee[ing] the Borough's contractual obligations with outside vendors and professionals". See Dumont Borough Code, Chapter 47, Article V, Section 52-17. Former Chief of Staff Eckel performed neither of these duties. Between Attorney DeLorenzo and Associate Terry, former Chief of Staff Eckel received three (3)

letters regarding the NJDEP's termination of the MOA and two (2) letters regarding applications for financial assistance. As far as the available record indicates, Mr. Eckel failed to respond to any of those letters. His lack of memory during his testimony is unfortunate at best, and contrived, at worst.

Finally, as to former Councilman Licameli, the Borough is unfortunately left in the dark. It is clear that former Councilman Licameli participated in special meetings concerning the contamination and that Mr. Licameli was likely the only member of Council to have direct involvement in remediation activity, however Mr. Licameli's refusal, failure or neglect to provide testimony prevents the Borough from understanding exactly what role former Councilman Licameli played in this tortured history.

Other questions that remain are who ordered the rotted out barrels to be crushed and removed, and how was LBG contracted by the Borough?

At this point, the Borough is and should be less concerned about the events that caused the contamination as it is the events that lead to the termination of the MOA. It cannot be denied that there were several missteps along the Borough's failed journey toward remediation. Gross inactivity, lack of oversight, and failure to promptly respond (if ever) to correspondence from the NJDEP, attorneys and engineers plague the history that has been uncovered. But no matter the costs and aggravation, the Borough's top priority should have been decontaminating the property in the interest of the environment and the local citizenry. Why the Borough failed to work toward achieving that goal remains unanswered. The best way to prevent a recurrence of such neglect of oversight would be to appoint an ad-hoc committee of the Council to monitor and advise the greater Governing Body and the public if and when such an issue presents itself in

the future. Clearly, where the executive authority is vested in just one or two individuals, the latitude for neglect or misjudgment is far greater than where the responsibility and authority is distributed among a larger group.

The cost of this episode, in damage to the environment, potential health risks to area residents and workers, and in dollars and cents will never be fully realized. As such, the best the Borough can hope to do is complete the remediation and ensure that such missteps are not repeated in the future.

Respectfully submitted,
Dumont DPW Remediation Investigation Committee


Matthew M. Carrick
Carl Manna, Chairman
Ellen Zamechansky

GLOSSARY OF ACRONYMS

AOC	Area of Concern
BAC	New Jersey Department of Environmental Protection Bureau of Applicability and Compliance
BFO	New Jersey Department of Environmental Protection Bureau of Field Operations
BUST	New Jersey Department of Environmental Protection Bureau of Underground Storage Tanks
CEA	Classification Exception Area
DICAR	Discharge Investigation Corrective Action Report
DPW	Dumont Department of Public Works
EEC	EEC Environmental Inc. (later became Harding Lawson Associates ("HLA"))
HLA	Harding Lawson Associates (formerly known as EEC Environmental Inc ("EEC"))
LBG	Leggette, Brashears & Graham, Inc.
MOA	Memorandum of Agreement
NJDEP	New Jersey Department of Environmental Protection
RAW	Remedial Action Workplan
RIW	Remedial Investigation Workplan
SRRA	Site Remediation Reform Act, N.J.S.A. 58:10C-1, et seq.
UST	Underground Storage Tank



Rec'd
10/1/10

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

Site Remediation Program
Bureau of Enforcement and Investigations
401 E. State St., 5th Floor West
PO Box 028
Trenton, New Jersey 08625-0028

29 September 2010

CERTIFIED MAIL

No.: 7007 0220 002 1052 7773

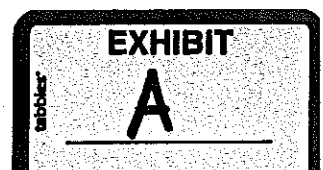
The Honorable Matthew P. McHale
Mayor of Dumont Borough
50 Washington Avenue
Dumont, NJ 07628

Re: Dumont Boro DPW Garage
1 Aladdin Avenue and Twinboro Lane
Block 1105 Lot(s) 14, 17, 18 and 22
Dumont Borough, Bergen County
PI#: 024363

Dear Mayor McHale,

The New Jersey Department of Environmental Protection (Department) is charged with responding to the release or threatened release of hazardous substances and with enforcing the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23 et seq.), the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.) and the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.). The Department has documented the release of hazardous substances at the Dumont Boro DPW Garage and nearby properties, 1 Aladdin Avenue and Twinboro Lane, Block 1105 Lot(s) 14, 17, 18 and 22, Dumont Borough, Bergen County.

It has been reported that all or portions of the subject properties were part of a military facility prior to 1923. Most, if not all of the site was subsequently owned by the Borough of Dumont and has been used for municipal service operations.



Dumont Boro DPW Garage
PI: 024363
Dumont Borough
Bergen County

Available information suggests that the property corresponding to Block 1105 Lot 14 and the northern portion of Block 1105 Lot 16 were formerly occupied by the Dumont Borough DPW facility until the early 1970s. Aerial photographs indicate that the former DPW garage was located on the northern portion of what is now Block 1105 Lot 16; the area corresponding to lot 14 appears to have been used for ancillary operations including parking and refueling. This portion of the site is located off of Aladdin Ave. and is referred to as Aladdin Park or the Aladdin parcel. (NOTE: It appears that previous investigations of the former DPW facility did not evaluate potential impacts to the area corresponding to the northern portion of Lot 16 which is now occupied by the Bergen County Housing Authority complex.) The original DPW facility on Block 1105 lot 14 and the facilities on the northern portion of 16 were demolished in the early 1970s. This parcel remained as vacant land; portions of this property may be part of a public park.

Portions of the properties corresponding to Block 1105, Lots 17 and/or 18 were formerly part of a sewage treatment plant that served Dumont and Bergenfield until the early 1960s; historical aerial photography indicates that the sewage treatment facility may have also included portions of Block 1105 Lot 15, the southern portion of lot 16 and several contiguous properties located in the Borough of Bergenfield. It was reported that the sewage treatment facility was demolished the 1960s or 1970s and several feet of fill was deposited in the area. The current Dumont DPW facility was constructed on Block 1105 Lot 17 during the early 1970s; this property is referred to as DPW parcel.

Previous investigations have identified numerous areas of environmental concern related to historical and current site operations on these properties.

During the 1980s and 1990s, the NJDEP received several reports concerning suspected discharges of hazardous substances at the Borough owned properties located off of Aladdin Ave. and Twinboro Lane.

In September 1986, the NJDEP was notified of a discharge of gasoline resulting from an overfill of an underground tank (presumably on Block 1105 Lot 17 or 18) during a fuel delivery by the United Oil Company. This notification was assigned NJDEP case number 86-09-22-01M. It was reported that contaminated soil was excavated from this area; however no additional information was provided to the Department regarding the remediation of this discharge.

In October 1986, the Borough of Dumont (Dumont) notified the Department that two underground storage tanks at the DPW yard (Block 1105 Lot 17 and/or 18) were suspected to be leaking; this notification was assigned NJDEP case/incident #86-10-09-05M. One of the tanks was 3,000-gallon capacity and contained diesel fuel; the other tank was 4,000 gallon capacity and contained gasoline.

Tank tightness tests were performed on both tanks during April 1987. It was reported that the 3,000-gallon capacity diesel fuel tank passed the tank test; however the gasoline tank failed the tightness test. The gasoline tank was subsequently removed on or about 27 April 1987. NJDEP personnel were on-site to observe the tank removal activities and conducted an inspection of the site at that time. Observations made during the inspection revealed the presence of gasoline-like odors and/or a sheen in storm drains located near the underground tanks. In addition, it was reported that

Dumont Boro DPW Garage
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Dumont Borough
Bergen County

a hole was discovered in the bottom of the gasoline tank and the underlying soil was noticeably contaminated. Soil was removed from the excavation until a clay layer was encountered and backfilled with clean soil. However, it appears no additional investigation/remediation was conducted in this area and a discharge investigation and corrective action report was not submitted for this event.

On or about September 30, 1990, a garbage truck containing hazardous substances caught fire and entered the DPW yard where the fire was extinguished with water and other fire suppressants. The NJDEP was notified of this incident and assigned it as NJDEP case/incident # 89-9-30-0853. It was reported that the truck was carrying trash from the Dumont High School and included out-of date-chemicals that had been inadvertently placed in the regular garbage. The fire erupted when the trash was compacted in the truck. The truck was diverted to the DPW yard and the garage was dumped on the unpaved ground where the fire was extinguished. All garbage and fire fighting waste water were collected in 55 gallon drums and were disposed of off-site. No sampling was conducted in the area at that time.

In May 1990, the Bergen County Office of Emergency Management notified the Department of a discharge of gasoline from an underground storage tank at the site; this notification was assigned NJDEP case/incident #90-05-17-1528. Later that same day (May 17, 1990), the Borough of Dumont Police notified the Department that the underground storage tank had been removed; this notification was assigned NJDEP case/incident #90-05-17-1620. Free phase petroleum was observed in soils and water that accumulated in the tank excavation. It was also reported that gasoline contaminated water was observed leaching through a retaining wall separating the DPW facility from an adjacent property; the gasoline contaminated water then migrated across the ground surface and into a nearby stream. Information provided to the Department indicated that this tank was a 1000-gallon capacity gasoline tank (possibly on Block 1105 Lot 14) that had been taken out of service in or about the early 1980s. Approximately 750 gallons of gasoline was left in the tank when it was taken out of service. At the time of its removal in May 1990, there was 900 gallons of gasoline and water in the tank; however it was estimated only 90 gallons was gasoline. Based on this information, it was estimated that over 600 gallons of gasoline had leaked from this tank from the time it was taken out of service (early 1980s) until it was removed in May 1990.

The Borough of Dumont subsequently retained EEC Environmental Inc. (EEC) to conduct an investigation of the former tank area. EEC installed five monitoring wells and performed a limited subsurface investigation to evaluate discharges from the former 1,000 gallon gasoline tank.

The initial investigation conducted in January 1991 revealed the presence of elevated levels of gasoline related compounds in several wells; the highest concentrations (benzene at 92,900 µg/l; toluene at 35,900 µg/l; ethylbenzene at 25,950 µg/l; and xylenes at 240,500 µg/l) were detected in MW-5 located northeast of the current DPW facility. However no contaminants were detected in a monitoring well located directly adjacent to and hydraulically down-gradient of the former 1,000 gallon gasoline tank. Based on these results EEC concluded that the contamination found in other monitoring wells may have been a result of discharges from the 4,000 gallon tank removed during 1986. This tank was the subject of incident # 86-10-09-05M as discussed above. EEC subsequently initiated an investigation of the site and identified "...five separate areas of concern at the DDPW.

property." These areas of concern included a former underground gasoline tank and releases of waste oil and residuals from home heating oil tanks in an area northeast of the DPW facility; a second underground gasoline tank and a storm sewer line located north of the DPW facility; another area located east of the DPW facility where were reported historic releases of waste oil and residuals from heating oil tanks; an active waste oil tank and possible surface discharges of gasoline south of the DPW facility; and the area of a former waste water treatment plant on an adjacent property.

EEC excavated numerous test pits in the five areas of concern and installed four additional monitoring wells to further evaluate the suspected source areas at the site. Visible evidence of contamination and/or the presence of gasoline/petroleum odors were observed in test pits at each of the areas of concern. It was also reported that several test pits revealed the presence of fill material; some of the fill encountered on-site and on an adjacent property was described as "...[b]lack fine-grained material that appears to have been generated by the filtration processes of the former sewage treatment plant ...". Construction/demolition debris, auto parts and other miscellaneous materials were encountered in one or more test pits.

Ground water samples were collected from the nine on-site monitoring wells in May 1991. Volatile organic compounds, semi-volatile compounds and/or petroleum hydrocarbons were detected in seven of the monitoring wells; several wells exhibited concentrations of benzene (up to 15,000 µg/l), ethylbenzene (up to 4,800 µg/l), toluene (up to 36,000 µg/l), xylenes (up to 20,000 µg/l), naphthalene (up to 705 µg/l) and petroleum hydrocarbons (up to 24 mg/l) that exceeded ground water quality standards.

At least one source suggests that two additional underground tanks were removed from the site in September 1991. It appears that soil contamination was discovered during the removal activities. The Borough of Dumont Department of Public Works environmental consultant, EEC Environmental Inc., notified the Department of these observations; this notification was assigned NJDEP case/incident #91-9-12-1533-49.

Additional soil and ground water investigations were conducted at the site during September 1991 and November 1991.

Soil samples were collected from test pits and soil borings installed at the five areas of concern previously identified by EEC. It was reported that soil staining and/or petroleum/gasoline-like odors were observed in numerous test pits and borings; sheens and other evidence of petroleum contamination was observed on groundwater in several test pits. Soil samples throughout the site revealed concentrations of polycyclic aromatic hydrocarbons which exceeded NJDEP soil clean-up standards.

Six additional monitoring wells were installed during September and October 1991. Samples were collected from fourteen of the site monitoring wells in October and November 1991; no sample was collected from MW-5 due to the presence of free phase petroleum product. Several samples revealed elevated levels of benzene (to 3,200 µg/l), toluene (to 6,900 µg/l), ethylbenzene (to 2,000 µg/l), xylenes (to 10,200 µg/l), 1,2-dichloroethane (54 µg/l) and/or MTBE (to 570 µg/l).

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In or about November 1991, a free product recovery program was initiated to remove petroleum product from MW-5.

By letter dated 30 October 1992 the Department notified the Borough of Dumont that additional investigation was required to further evaluate contamination related to former and current underground storage tanks as well numerous other areas of environmental concern not related to the underground tanks. Specifically, the Borough of Dumont was required to conduct further sampling to delineate the extent of contamination related to the underground tank areas; determine the source(s) and delineate the extent of base-neutral contamination found in soil throughout the site; determine potential environmental impacts related to the extinguishment of the fire in the garbage truck (incident 89-9-30-0853); identify sources of gasoline related contamination which did not appear to be related to the known underground tanks at the site; and identify and evaluate other on-site areas of concern including floor drains and dry wells. In addition, the Department required the Borough of Dumont to prepare a separate underground tank registration for the 1,000 gallon gasoline tank that was formerly located on Block 1105 Lot 14 since the area was located across the street from the existing DPW facility and the tank was not properly closed therefore it was still considered active at the time of its removal in May 1990. (NOTE: The tank on Block 1105 Lot 14 was eventually assigned registration # 0243632 and the underground tanks at the current DPW facility (Block 1105 Lots 17-18) were registered under #0026606.)

Samples were collected from most of the existing site monitoring wells in December 1992. Samples were not collected from MW-5 or MW-9 due to the presence of free phase petroleum product. Elevated concentrations of benzene (up to 1300 µg/l); toluene (up to 1500 µg/l); ethylbenzene (up to 1200 µg/l) and/or xylenes (up to 4900 µg/l) were detected in several of the ground water samples. One sample also exhibited an elevated concentration of lead.

A soil gas survey was conducted at the site during February 1993 and revealed elevated concentrations of benzene, toluene, ethylbenzene and/or xylenes at various locations throughout the site. Toluene and xylenes were detected most frequently and at the highest concentrations. It was also reported that the greatest concentrations of contamination were found in samples obtained beneath the existing maintenance building (Block 1105 Lot 17) and extended in a northeasterly direction towards a nearby stream.

Three additional monitoring wells were installed at the site in August 1993. In addition, four piezometers and a recovery well were installed in an attempt to delineate the extent of the free phase petroleum contamination near the existing DPW facility (Block 1105 Lot 17). Based on this investigation, Harding Lawson Associates concluded that free phase petroleum was confined to the area of MW-5 and MW-9.

Three additional underground tanks on Block 1105 Lots 17 and 18 were removed during January 1994 by Boswell McClave Engineering on behalf of the Borough of Dumont. Post excavation soil samples were collected from the former tank areas; several of the post excavation samples exhibited elevated levels of base neutral extractable compounds and/or petroleum hydrocarbons. It was reported that contaminated soil was removed from the tanks areas and disposed of off-site.

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By letters dated 19 August 1994 and 23 August 1994, the Department's Bureau of Underground Storage Tanks notified the Borough of Dumont that since contamination was documented at distinct locations with different addresses, the Department would address the locations as separate sites. Specifically, the Department informed Dumont that incident #86-10-09-05M would be assigned to the Department of Public Works site (Block 1105 Lots 17 and 18) as it is specific to the first reported discharge that occurred at the site from an underground storage tank system. The contamination related to incident #90-05-17-1528 would be assigned to the "Aladdin Park site" (Block 1105 Lot 14) as it is specific to the discharge that occurred from a 1,000 gallon underground gasoline storage tank located on that parcel. The Department further required the Borough Dumont to conduct an investigation of the site in order to identify any area of concern that may be contributing to the presence of base neutral extractable compounds throughout both sites, or alternatively to obtain data to support that this contamination was attributable to an off-site source. The Department also offered the Borough of Dumont the opportunity to enter into a Memorandum of Agreement that would enable the Department to assign one case manager to provide oversight of the investigation and remediation of both sites (DPW facility and Aladdin Park) and the base neutral extractable contamination.

Samples were collected from most of the site monitoring wells in October 1994; samples were again not collected from well MW-5 and MW-9 due to the presence of free phase petroleum product. Several wells (MW-1, MW-4, MW-11) also were not sampled since previous sampling events historically revealed non-detect levels of contamination. Benzene, toluene, ethylbenzene and/or xylenes were again detected above ground water quality standards in one or more of the sampled wells. Surface water samples were collected from the nearby stream and were analyzed for volatile organic compounds. Tetrachloroethylene was detected in one of the surface water samples at 3 µg/l. Available data indicates that ground water from the site flows towards this stream.

In January 1995, Harding Lawson Associates (Harding) submitted Supplemental Remedial Investigation Results and Proposed Remedial Action reports for both the DPW facility and Aladdin Park property. Harding Lawson proposed capping areas of contaminated soil and executing a deed notice for these areas. For ground water, Harding Lawson proposed to recover free phase petroleum from the vicinity of MW-5 and MW-9, and address dissolved phase contamination through natural attenuation.

By letter dated 20 June 1995 the Department notified the Borough of Dumont that the Supplemental Remedial Investigation Results and Proposed Remedial Action was conditionally approved as a remedial investigation workplan; however the Borough was advised that the report could not be approved as a remedial action workplan. The 20 June 1995 letter also identified certain deficiencies concerning the investigation and remediation of the regulated underground tanks at the site and outlined specific requirements necessary to correct the cited deficiencies including further delineation of both soil and ground water contamination. In addition, the Department reported that the proposal for natural remediation could not be approved until the full extent of the ground water plume(s) was (were) delineated and all free product has been removed. The Borough was further advised that the issues pertaining to the regulated underground tanks would be handled under the NJDEP Bureau of Underground Storage Tanks whereas non-regulated tank issues would be addressed by another NJDEP office, unless the Borough executed a Memorandum of Agreement

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and requested that both underground storage tank issues and non-underground tank issues be handled under one NJDEP program.

The Borough of Dumont entered into a Memorandum of Agreement with the Department in January 1997 to conduct a preliminary assessment/site investigation, remedial investigation and remedial action for Block 1105 Lots 17 and 22. (NOTE: It appears the site may also include Block 1105 Lots 14, 15, 16 and 18; however these areas were not identified in the MOA package.)

The Borough of Dumont retained Leggette, Brashears & Graham, Inc. to conduct the investigation of the property pursuant to the Memorandum of Agreement.

In October 1998, Leggette, Brashears & Graham, Inc. submitted a Remedial Investigation Workplan and Historic Fill Determination relative to the DPW and Aladdin Avenue parcels. Leggette, Brashears & Graham, Inc. identified three areas of concern which included soils throughout the site contaminated with base neutral extractable compounds; contamination related to discharges from an underground tank formerly located on the Aladdin parcel; and contamination related to discharges from several underground tanks formerly located on the DPW parcel. Leggette, Brashears & Graham suggested that the site wide base neutral contamination was due to historical fill and the extent of this contamination had been delineated. As such, Leggette, Brashears & Graham, Inc. proposed implementing a declaration of environmental restriction and requested a conditional no further action for this area. Leggette, Brashears & Graham proposed to conduct additional ground water sampling in the Aladdin parcel and recommended natural remediation with a CBA for this area. With regard to the contamination on the DPW property, Leggette, Brashears & Graham proposed to conduct further sampling and monitor ground water for the presence of free product; remediation would be proposed if free product was observed, and natural remediation would be the selected remedy if no free product was encountered and a decreasing trend was observed in the levels of dissolved phase contamination.

By letter dated 6 August 1999 the Department's Bureau of Field Operations - Northern Field Office notified the Borough of Dumont that the Remedial Investigation Workplan and Historic Fill Determination did not address deficiencies identified in several previous NJDEP letters dated 12 June 1995 and 20 June 1995. The Borough was advised that the workplan should be revised to address the cited deficiencies. The Borough of Dumont failed to respond to the 6 August 1999 deficiency letter and the Department terminated the Memorandum of Agreement under letter dated 23 August 2000.

The NJDEP conducted inspections of Dumont Department of Public Works (DPW) facility on 20 July 2010 and 16 September 2010. It was determined that potential areas of concern remain to be addressed at the site. A review of available NJDEP case files indicate that the investigation and remediation of the site has not been completed to the satisfaction of the Department. In addition, many of the previous investigation reports provide conflicting, or contradictory information. As such, the Borough of Dumont must conduct an investigation of the site and evaluate all identified areas of environmental concern in accordance with the Site Remediation Reform Act and the Technical Requirements for Site Remediation.

Liability

The Bureau of Enforcement and Investigations/Responsible Party Investigations Unit (RPIU) has initiated an investigation to identify the responsible parties that are liable for remediation of the above referenced contamination. The Borough of Dumont, owner of the property at the time hazardous substances were discharged was also the owner and operator of regulated underground storage tanks from which hazardous substances were discharged. Therefore, the Borough of Dumont is a responsible party pursuant to the Spill Compensation and Control Act (N.J.S.A. 58:10-23 et seq.) and the Underground Storage of Hazardous Substances Act. Furthermore, the Borough of Dumont has an affirmative obligation to investigate and remediate contamination related to site operations pursuant to the Site Remediation Reform Act.

Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq)

On 7 May 2009, the Site Remediation Reform Act (SRRA) was enacted. The SRRA compels responsible parties to address discharges of hazardous substances by establishing an affirmative obligation to conduct remediation. The SRRA establishes criteria for the licensing of site remediation professionals who will assure that contaminated sites are remediated in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E and related Department guidance. The SRRA authorizes the Department to establish mandatory timeframes for the completion of each phase of remediation. These timeframes, as well as other requirements of the act, have been codified in regulations that became effective on 4 November 2009. The regulations can be found at <http://www.nj.gov/dep/srp/regs/>.

Pursuant to section 30 of SRRA (N.J.S.A. 58:10B-1.3.30.a.), the owner or operator of an industrial establishment that is subject to the Industrial Site Recovery Act; the discharger of a hazardous substance, or those in any way responsible for a hazardous substance pursuant to provisions of the Spill Compensation and Control Act; and the owner or operator of an underground storage tank that is subject to the provisions of the Underground Storage of Hazardous Substances Act, that has discharged a hazardous substance, shall remediate the discharge(s) of hazardous substances. Remediation must be completed within timeframes established by the Department, and responsible parties who initiate remediation after 4 November 2009 must use the services of a Licensed Site Remediation Professional. Specific requirements can be found at N.J.A.C. 7:26C-2.4.

Failure to comply with the obligations of SRRA may result in the Department taking direct oversight of the remediation of the contaminated site. Once a site or a portion of a site is under direct Department oversight, the responsible party forfeits all rights in the decision making process regarding the remedial investigation and remedial action to be performed at the site, including remedy selection.

As the first step in the remedial process, you must complete the Confirmed Discharge Notification Form, (available at <http://www.nj.gov/dep/srp/srra/forms/>); the completed Confirmed Discharge Notification Form must be submitted to the Department within five (5) days of your receipt of this letter. The next step in the process is to hire a Licensed Site Remediation Professional. A list of Licensed Site Remediation Professionals (LSRP) is available

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at http://www.state.nj.us/dep/srp/srra/lrsp/temporary_lsrp_list.htm, A LSRP Notification of Retention or Dismissal Form (available at <http://www.nj.gov/dep/srp/srra/forms/>) must be completed and submitted to the Department within 45 days of your receipt of this letter. Please send all submittals to:

NJDEP, Bureau of Case Assignment & Initial Notice
401 East State Street, PO Box 434
Trenton, NJ 08625-0434
Attention: Bureau Chief

Should you fail to submit the required documentation or decide not to comply with all remedial requirements, the case will be evaluated for enforcement action pursuant to the above referenced statutory authorities. Failure to complete the required remediation may result in the Department conducting the remediation using public funds. If public funds are expended to conduct remediation, the Borough of Dumont may be held liable for up to three times the costs incurred by the Department.

Please contact me at 609.292.2466 if you have questions regarding this correspondence.

Sincerely,


Rodney F. Murray

Responsible Party Investigations Unit

c: Clerk, Borough of Dumont
John P. Perkins, Borough of Dumont Administrator
Kirstin Pointin-Hahn, Chief, BCAN



2010
**BOROUGH OF DUMONT
RESOLUTION**

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
CARRICK	✓			✓
CASPARE				
FREEMAN	✓			
MANNA	✓			
STYLIANOU	✓			
ZAMECHANSKY	✓			
MAYOR McHALE				
TOTALS	5			1

Resolution No. 285
Date: November 9, 2010
Page: 1 of 2
Subject: Investigation and Subpoena
power related to DPW
Environmental Remediation
Purpose: Authorization
Account No. _____
Contract No. _____
Dollar Amount: _____
Prepared By: Gregg Paster, Esq.

Offered by: Carrick
Seconded by: Manna

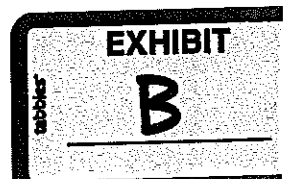
Certified as a true copy of a Resolution adopted by the Borough of Dumont on above
date at a Regular Meeting by: Susan Connelly

Susan Connelly, RMC, Borough Clerk
Borough of Dumont, Bergen County, New Jersey

**AUTHORIZATION OF INVESTIGATION AND SUBPOENA POWER RELATED TO
DPW ENVIRONMENTAL REMEDIATION**

**RESOLUTION OF THE BOROUGH OF DUMONT
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, the governing body has authorized investigation into the circumstances and actions surrounding certain environmental spill cases as set forth in a letter dated September 29, 2010 from the New Jersey Department of Environmental Protection; and



WHEREAS, the investigation requires additional information, including document requests and subpoenas; and

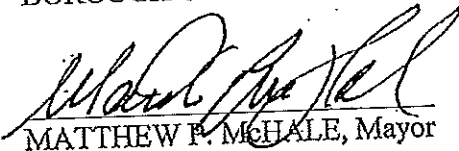
WHEREAS, the Borough Council of the Borough of Dumont now seeks to exercise its powers pursuant to the New Jersey Constitution, applicable statute and case law interpretations to issue subpoenas to compel testimony and production of documents as required to complete the investigation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Dumont, County of Bergen, State of New Jersey that the Borough Attorney be and is hereby authorized to issue subpoenas *ad testificandum* and/or subpoenas *duces tecum* in the name of the Borough of Dumont, and to request such testimony and production of documents and things as may be necessary to complete the authorized investigation.

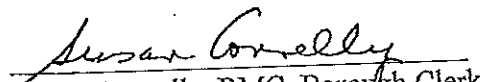
I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough of Dumont Council at a meeting held on November 9, 2010.

BOROUGH OF DUMONT

BY:


MATTHEW P. McHALE, Mayor

ATTEST:


Susan Connelly, RMC, Borough Clerk

Dated: November 9, 2010